

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MYNETTE TECHNOLOGIES, INC.
and STEVEN M. COLBY,

Plaintiffs,

V.

THE UNITED STATES,

Defendant,

and

GEMALTO, INC. and IDEMIA IDENTITY
& SECURITY USA LLC,

Intervenor-Defendants.

Case No. 16-cv-01647-RTH

Judge Ryan T. Holte

JOINT STATUS REPORT CONCERNING CASE SCHEDULE

Plaintiffs Mynette Technologies, Inc. and Steven M. Colby (collectively, “Mynette”), Defendant, the United States (“the Government”), and Intervenor-Defendants Gemalto, Inc. (“Gemalto”) and Idemia Identity and Security USA LLC (“Idemia”) (collectively, “the Parties”) respectfully submit this Joint Status Report, as Ordered by the Court on March 8, 2024. ECF 185.

In that Order, the Court denied the Government’s Motion for Reconsideration (ECF 171) and entered a final Covenant Not to Sue as a separate Protective Order (ECF 186). The Court directed the Parties to file “a joint status report proposing a schedule for lifting the stay and next steps in discovery and future proceedings.” ECF 185 at 33. The Court further stated that “[t]he proposed schedule should resume discovery from the last scheduled event completed before this dispute arose. *See* 18 Oct. 2021 Order, ECF No. 124.” *Id.*

I. Brief Case Background

Mynette originally filed this patent infringement action on December 14, 2016. ECF 1. The Court issued a claim construction order on August 17, 2018. ECF 68. The Parties negotiated a Protective Order that was submitted on November 2, 2018, and entered on November 9, 2018. ECF 73, 74. While fact discovery was ongoing, Gemalto intervened on October 17, 2019. ECF 96. Idemia intervened on March 6, 2020. ECF 107. Based on facts that unfolded during discovery, Defendants filed a Motion for Terminating Sanctions on October 25, 2021. ECF 125. After prior amendments to the case schedule, fact discovery closed on December 3, 2021. ECF 124.

The Court stayed the case pending resolution of the Motion for Terminating Sanctions on March 8, 2022. ECF 133. As set forth below, under the prior schedule, exchange of initial expert reports were due three days later on March 11, 2022. After a Motion for Reconsideration filed on May 18, 2023 (ECF 171), the Court resolved Defendants' Motion on March 8, 2024. ECF 185.

II. Prior Case Schedule

Prior to the Court's March 8, 2022 stay of the action, the following items (and corresponding dates) remained (ECF 124 at 2):

Exchange of RCFC 26(a)(2)(B) opening expert reports on issues upon which the parties carry the burden of proof (except for damages)	11 March 2022
Exchange of RCFC 26(a)(2)(B) responsive expert reports (except for damages)	20 April 2022
Close of expert discovery (for all issues other than damages)	13 May 2022
Deadline for dispositive motions under RCFC 56	29 June 2022
Deadline for responses to dispositive motions	29 July 2022
Deadline for replies to dispositive motions	12 August 2022

III. New Case Schedule

The Court's Order (ECF 185) instructed the parties that "[t]he proposed schedule should resume discovery from the last scheduled event completed before this dispute arose. *See* 18 Oct. 2021 Order, ECF No. 124." *Id.* To that effect, a schedule that perfectly resumes from the last scheduled event would resume opening expert report exchanges on March 25, 2024. The Parties propose a brief period of four weeks to prepare for the scheduled events, and then resume effectively the same schedule previously entered by the Court as follows:

Event	Date
Exchange of RCFC 26(a)(2)(B) opening expert reports on issues upon which the parties carry the burden of proof (except for damages)	April 23, 2024
Exchange of RCFC 26(a)(2)(B) responsive expert reports (except for damages)	June 4, 2024
Close of expert discovery (for all issues other than damages)	June 28, 2024
Deadline for dispositive motions under RCFC 56	August 5, 2024
Deadline for responses to dispositive motions	September 6, 2024
Deadline for replies to dispositive motions	September 20, 2024

IV. Mediation

The Parties have been in discussion regarding mediation in order to potentially resolve this dispute. The Parties are in the process of obtaining final authority to mediate, including proposing potential mediators to one another and setting a date for mediation. The Parties agree that the case schedule should proceed in parallel to any such mediation once approved, and will update the Court if relevant developments arise from mediation.

V. Conclusion

The Parties respectfully request the Court enter the above-identified case schedule as per the Court's March 8, 2024 Order. ECF 185.

Respectfully submitted,¹

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March 22, 2024

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¹ Pursuant to RCFC 20(B) of Appendix E, the filing attorney represents that the other parties have reviewed this document and consent to its filing.

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